

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
DOCKET NO. 3:09-cr-40-MOC-5

UNITED STATES OF AMERICA,)
)
)
)
Vs.)
)
JOHN THOMAS SMITH,)
)
Defendant.)

ORDER

THIS MATTER is before the court on defendant's pro se Motion to Terminate Supervised Release (#212). In this matter, on March 26, 2010, Defendant was sentenced to an active term of imprisonment of 117 months, followed by five years of supervised release. See also Judgment (#112).

A motion for early termination of supervised release is governed by 18 U.S.C. § 3583(e)(1) and Rule 32.1, Fed. R. Crim. P. While such rule does not place restrictions on who may file a Motion for Early Termination, meritorious requests are typically sponsored by the probation officer supervising the defendant.

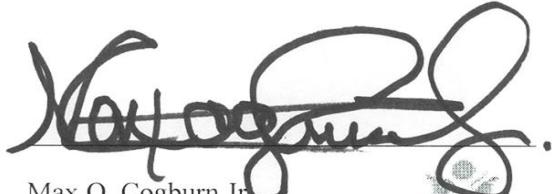
Here, defendant does not reflect whether his case officer joins in the motion. While Section 3583(e)(1) provides that supervision may be terminated after one year, the court must be "satisfied that such action is warranted by the conduct of the defendant...." Id. While defendant states that his conduct has been exemplary, the court is not satisfied by such unsworn statement as it does not meet the standard provided in the statute as it is non-evidentiary. Defendant is advised that such evidence is usually presented in the form of affidavits or unsworn declarations, and usually includes a positive recommendation from his supervising officer. Defendant is advised that while

it is *possible* to have supervised release terminated without support from his supervising officer, nearly all successful motions include a positive recommendation or sponsorship from the supervising officer. Having considered defendant's motion and reviewed the pleadings, the court enters the following Order.

ORDER

IT IS, THEREFORE, ORDERED that defendant's Motion to Terminate Supervised Release (#212) is **DENIED** without prejudice as to the later filing of a motion supported by evidence indicating that such relief is warranted by his conduct while on release and is also in the interests of justice.

Signed: February 11, 2020



Max O. Cogburn Jr.
United States District Judge